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Attorneys for Sonos, Inc.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12
13 GOOGLE LLC,

14 Plaintiff,

15 vs.

16 SONOS, INC.,

17 Defendant.
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Case No. 3:20-cv-06754 WHA
Related to Case No. 4:21-07559

**JOINT MOTION FOR ISSUANCE OF
LETTER OF RENEWED REQUEST FOR
INTERNATIONAL JUDICIAL
ASSISTANCE AND APPOINTMENT OF
COMMISSIONERS TO TAKE
EVIDENCE PURSUANT TO CHAPTER
II, ARTICLE 17 OF THE HAGUE
CONVENTION OF 18 MARCH 1970 ON
THE TAKING OF EVIDENCE ABROAD
IN CIVIL OR COMMERCIAL MATTERS**

Referral: Hon. Donna M. Ryu, USMJ

1 December 22, 2022

2 Submitted via ECF

3 Hon. Donna M. Ryu, USMJ
 4 Oakland Courthouse, Courtroom 4
 1301 Clay Street, 3rd Floor
 5 Oakland, CA 94612

6 Re: Joint Submission for Issuance of Letter of Renewed Request for International
 7 Judicial Assistance
Google LLC v. Sonos, Inc., Case No. 4:20-cv-06754-WHA (N.D. Cal.)
 8 *Sonos, Inc. v. Google LLC.*, Case No. 4:21-cv-07559-WHA (N.D. Cal.)

9 Your Honor:

10 The parties in the above-referenced actions seek the Court's assistance in order to take
 11 additional deposition testimony from witness Ramona Bobohalma in Switzerland. The Court
 12 previously assisted the parties in obtaining permission to depose Ms. Bobohalma in Switzerland,
 13 granting the parties' joint motion on April 25, 2022 and appointing various of the parties' counsel
 14 as commissioners. *See* Dkts. 225, 226. However, on December 8, 2022, this Court ruled that Sonos
 15 was permitted to take additional testimony from Ms. Bobohalma in connection with granting Google
 16 LLC's ("Google") Motion for Leave to Amend Invalidity Contentions Pursuant to Patent L.R. 3-6.
See Dkts. 418, 425. Ms. Bobohalma is a Senior Staff Software Engineering Manager at Google who
 will offer further testimony relevant to this action. The parties have agreed to conduct a remote live
 video deposition of Ms. Bobohalma in Switzerland.

17 Switzerland, as a party to the Hague Convention, requires litigants to obtain permission from
 18 the Federal Office of Justice before taking deposition testimony of a witness located in Switzerland.
 Google has corresponded with the Federal Office of Justice, who has confirmed that the parties may
 19 request a "renewal" of the previously-granted permission for Ms. Bobohalma's deposition in
 20 Switzerland by submitting a short supplemental order from this Court that explains the purpose of
 the additional testimony and the similarities to the previous deposition. To that end, the parties
 21 request that the Court (1) appoint a Swiss commissioner and appoint representatives for the parties
 who will participate in the deposition as commissioners, and (2) request judicial assistance from the
 22 applicable Swiss authorities.

23 Accordingly, we ask that the Court grant the parties' Joint Motion for Issuance of Letter of
 24 Renewed Request for International Judicial Assistance and Appointment Of Commissioners to Take
 25 Evidence Pursuant to Chapter II, Article 17 of The Hague Convention of 18 March 1970 on the
 Taking of Evidence Abroad in Civil or Commercial Matters. The parties have agreed that Olivier
 26 Buff, a Swiss attorney representing Google, will again be appointed Swiss Commissioner. The
 parties have also agreed that Marc Kaplan and Nima Hefazi will be appointed commissioners for
 27 Google, and Dan Smith, Michael Boyea, and Sean Sullivan will be appointed commissioners for
 28 Sonos, Inc.

1 Thank you for Your Honor's kind attention to this matter.
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1 Sonos, Inc. (“Sonos”) and Google LLC (“Google”) hereby move the Court pursuant to
 2 Fed. R. Civ. P. 28(b) for entry of an order (the “Order”):

- 3 (1) Appointing Marc Kaplan and Nima Hefazi on behalf of Google and Dan Smith,
 4 Michael Boyea, and Sean Sullivan on behalf of Sonos, as commissioners (together, the
 5 “Commissioners”), pending the approval of the Swiss authorities, to conduct the
 6 additional examination of witness Ramona Bobohalma in Switzerland pursuant to
 7 Chapter II, Article 17 of the Hague Convention of 18 March 1970 on the Taking of
 8 Evidence Abroad in Civil or Commercial Matters, T.I.A.S. No. 7444, 23 U.S.T. 2555
 9 (“Chapter II of the Hague Convention”);
- 10 (2) Appointing Olivier Buff as commissioner (the “Swiss Commissioner”), pending the
 11 approval of the Swiss authorities, to supervise the additional examination of witness
 12 Ramona Bobohalma in Switzerland pursuant to Chapter II of the Hague Convention;
- 13 (3) Issuing a Letter of Renewed Request for International Judicial Assistance (“Letter of
 14 Renewed Request”) pursuant to 28 U.S.C. § 1781 and Chapter II of the Hague
 15 Convention;
- 16 (4) Directing submission of the Letter of Renewed Request for Assistance to the Swiss
 17 Federal Office of Justice (“FOJ”) via the Cantonal Court of Zürich for the purpose of
 18 approving the appointment of the Commissioner; and
- 19 (5) Granting such other and further relief as this Court may deem just and proper.

20 The parties have agreed to use the procedures of Chapter II of the Hague Convention to
 21 facilitate the deposition of Ramona Bobohalma in Switzerland, who has consented to being deposed
 22 there via remote means. Under Chapter II, a deposition is supervised by a Swiss Commissioner and
 23 conducted by commissioners representing the parties and duly appointed by the Court in the U.S.
 24 proceeding, all of whom are authorized to proceed by the FOJ at the request of the U.S. tribunal.
 25 This procedure will not restrict the scope of discovery otherwise permissible under the Federal Rules
 26 of Civil Procedure.

27 The steps to proceed under Chapter II of the Hague Convention and in accordance with the
 28 POJ’s directive are as follows:

- 1 1. The Court must duly appoint one or several commissioner(s) for the purpose of taking
- 2 evidence abroad. A proposed order for the Court to appoint commissioners is attached hereto
- 3 as Exhibit A (the “Proposed Order”).
- 4 2. The Court must issue the Letter of Renewed Request to the FOJ for authorization to take
- 5 evidence abroad. A proposed Letter of Renewed Request is attached hereto as Exhibit B
- 6 (the “Proposed Letter of Renewed Request”).
- 7 3. The Proposed Letter of Renewed Request must be filed with the FOJ. Google will undertake
- 8 this step if the Court grants the instant motion.
- 9 4. Upon approval from the FOJ and subject to the terms contained in the Proposed Letter of
- 10 Renewed Request, the parties will arrange for a live video deposition. Olivier Buff will be
- 11 present in person at the deposition of Ms. Ramona Bobohalma to supervise proceedings.
- 12 5. The deposition will take place at the Swiss offices of Quinn Emanuel at Dufourstrasse 29,
- 13 8008 Zürich, Switzerland or another nearby office if additional space is required. Ms.
- 14 Ramona Bobohalma has agreed to voluntarily comply by proceeding pursuant to Chapter II
- 15 of the Hague Convention.
- 16 6. Neither the entry of the Proposed Order, the Proposed Letter of Renewed Request, the
- 17 submission of the Swiss Application nor the conduct of the deposition pursuant to Chapter
- 18 II of the Hague Convention shall constitute or operate as a waiver of the attorney-client
- 19 privilege, the work product doctrine, or any other privileges, rights, protections, or
- 20 objections that may apply to that evidence under the laws of Switzerland, or of the United
- 21 States, nor as a concession that any assertion of any such privilege, right, protection, or
- 22 objection is necessarily valid.

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24 Dated: December 22, 2022

Respectfully submitted,

25 /s/ Sean Sullivan

/s/ Charles K. Verhoeven

26 Sean Sullivan
27 Attorneys for SONOS, INC.

Charles K. Verhoeven
Attorneys for GOOGLE LLC

28 LEE SULLIVAN SHEA SMITH LLP

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

ATTESTATION OF CONCURRENCE

I am the ECF user whose ID and password are being used to file this Joint Motion for Issuance of Letter of Request for International Judicial Assistance and Appointment of Commissioners to Take Evidence Pursuant to Chapter II, Article 17 of The Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters. Pursuant to Civil L.R. 5-1(h)(3), I hereby attest that each of the signatories identified above has concurred in the filing of this document.

Dated: December 22, 2022

By /s/ Charles K. Verhoeven
Charles K. Verhoeven
Counsel on behalf of Google